

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MARJORIE L. SCHULTZ, as
Personal Representative of the Estate of
Edward R. McCardle Sr.,

Plaintiff,

v.

No. 1:21-cv-00140-MV-GBW

PURDUE PHARMA, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER comes before the Court on Plaintiff's failure to timely file an amended complaint.


The Complaint asserts a "wrongful death" claim against Defendant. Complaint at 2, Doc. 2, filed November 13, 2020. The only facts alleged in the Complaint are: (i) "C.O.D. toxic effects of fentanyl. See Death Cert."; and (ii) "loss of father & theft of his property while he was on ICE." Complaint at 5-6.

United States Magistrate Judge Gregory B. Wormuth notified Plaintiff that: (i) the Complaint fails to state a claim upon which relief can be granted because it does not state with particularity what each Defendant did, when they did it, and what specific right they violated; (ii) the Complaint does not show that the Court has jurisdiction over this matter as required by Rule 8(a)(1) of the Federal Rules of Civil Procedure; and (iii) it appears that this action may be barred by the statute of limitations. *See* Order to Amend Complaint, Doc. 7, filed February 23, 2021. Judge Wormuth ordered Plaintiff to file, within 30 days, an amended complaint that states

a claim over which the Court has jurisdiction and notified Plaintiff that failure to timely file an amended complaint may result in dismissal of this case.

Plaintiff filed two motions for extensions of time to file an amended complaint so that she could obtain an attorney. *See* Doc. 8, filed March 23, 2021; Doc. 10, filed April 27, 2021. Judge Wormuth granted Plaintiff two extensions, one of 30 days and another of 45 days, and notified Plaintiff that failure to timely file an amended complaint may result in dismissal of this case. *See* Doc. 9, filed March 26, 2021; Doc. 11, filed April 29, 2021. Plaintiff did not file an amended complaint or request a third extension by the June 13, 2021, deadline. This case thus will be dismissed.

IT IS ORDERED that this case is **DISMISSED** without prejudice.



MARTHA AZQUEZ
UNITED STATES DISTRICT JUDGE